

not inconsistent with SMCRA section 515(b)(15) or the Federal regulations at 30 CFR 816/817.67 and can be approved.

199-1-2.14 defines "caused by blasting" to mean that there is direct, consistent and conclusive evidence or information that the alleged damage was definitely caused by blasting from the mine site in question. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.15 defines "certified blaster" to mean a person who has taken and passed the examination described in CSR 199-1, and has been issued a certification card by the Office. We find that this definition is not inconsistent with SMCRA section 515(b)(15) or the Federal regulations at 30 CFR 816/817.61(c) and 850.5 and can be approved.

199-1-2.16 defines "certified examiner/inspector" to mean a person employed by the Office of Explosives and Blasting who administers training or examinations to applicants for certification as certified blasters, or who inspects surface mining operations and who has taken and passed the examination described in CSR 199-1. We find that this definition is not inconsistent with SMCRA section 515(b)(15) or the Federal regulations and can be approved.

199-1-2.17 defines "chief" to mean the Chief of the Office of Explosives and Blasting. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.18 defines "claimant" to mean the property owner who makes a blasting damage claim. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.19 defines "claims administrator" to mean the individual, firm or organization that manages the blasting damage claims program for the Office of Explosives and Blasting. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.20 defines "construction blasting" to mean blasting to develop haulroads, mine access roads, coal preparation plants, drainage structures, or underground coal mine sites and shall not include production blasting. We find that this definition is not inconsistent with SMCRA section 515(b)(15) or the Federal regulations at 30 CFR 816/817.61 and can be approved.

199-1-2.21 defines "contiguous or nearly contiguous" to mean surface

mining operations that share a permit boundary or are within 100 feet of each other at the nearest point. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.22 defines "detonation" to mean a chemical reaction resulting in a rapid release of energy. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.23 defines "Secretary" to mean the Secretary of the Department of Environmental Protection or the Secretary's authorized agent. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.24 defines "Department" to mean the Department of Environmental Protection. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.26 defines "fly rock" to mean rock and/or earth propelled from the blast site through the air or along the ground by the force of the detonated explosives. We find that this definition is consistent with the Federal regulations at 30 CFR 816/817.67(c) regarding flyrock and can be approved.

199-1-2.27 defines "loss value" to mean the amount of money indicated in a given loss to include costs of repairs or replacement costs. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.28 defines "not caused by blasting" to mean that there is direct, consistent, and conclusive evidence or information that blasting from the mine site in question was definitely not at fault for the alleged property damage. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.29 defines "office" to mean the Office of Explosives and Blasting. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.30 Definition of "operator." Operator means any person who is granted or who should obtain a permit to engage in any activity covered by W. Va. Code 22. Under W. Va. Code 22-3-3(o), "operator" is defined as follows:

(o) "Operator" means any person who is granted or who should obtain a permit to engage in any activity covered by this article and any rule promulgated under this article and includes any person who engages in surface-mining or surface-mining and reclamation operations, or both. The term shall also be construed in a manner consistent with the federal program pursuant to the federal Surface-Mining Control and Reclamation Act of 1977, as amended.

The Federal definition at 30 CFR 701.5 defines "operator" as any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location. In accordance with the State's statutory definition of "operator," the State's regulatory definition of "operator" must be construed in a manner consistent with the Federal definition of "operator." We find, therefore, that the definition of "operator" at CSR 199-1-2.30, like W. Va. Code 22-3-3(o), is consistent with the Federal definition of "operator" at 30 CFR 701.5 and can be approved.

199-1-2.31 defines "possible caused by blasting" to mean the physical damage in question is not entirely consistent with blasting induced property damage, but that blasting cannot be ruled out as a causal factor. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.32 defines "pre-blast survey" to mean the written documentation of the existing condition of a given structure near an area where blasting is to be conducted. The purpose of the survey is to note the pre-blasting condition of the structure and note any observable defects or damage. While the proposed definition does not define near, we note that under W. Va. Code 22-3-13a(a), pre-blast surveys will be conducted for man-made dwellings or structures within 1/2 mile of the permitted area or under specified circumstances 7/10 mile of the proposed blasting site. We find that this definition, when read together with the statute, is consistent with the Federal regulations at 30 CFR 816/817.62 and can be approved.

199-1-2.33 defines "probably caused by blasting" to mean that there is physical damage present at the site in question that is entirely consistent with blasting induced property damage, and said damage can be attributed to a specific mine site and/or blast event(s). We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.34 defines "probably not caused by blasting" to mean that there is substantial, but not conclusive information that the alleged damage was caused by something other than blasting. We find that this definition is not inconsistent with SMCRA or the Federal regulations and can be approved.

199-1-2.35 defines "production blasting" to mean blasting that removes the overburden to expose underlying